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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,291	02/13/2004	William George Wilhelm	NEXTEK-BALLAST-CON	7429
4988	7590	01/12/2007		
ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712			EXAMINER PHILOGENE, HAISSA	
			ART UNIT	PAPER NUMBER
			2821	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/779,291

Applicant(s)

WILLIAM GEORGE WILHELM

Examiner

Haissa Philogene

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,9-16,18-26,28,29 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28,29 and 40-42 is/are allowed.
- 6) ☒ Claim(s) 1,9-15,18-26,34,35,38 and 39 is/are rejected.
- 7) ☒ Claim(s) 3,4,16,36 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/20/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 11-15, 22-26, 34, 35, 38 and 39 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 5, 7, 8, 16-25 and 32 of prior U.S. Patent No. 6,693,395. This is a double patenting rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Pal, Patent No. 6,118,228, cited by Applicant.

As per claim 1, Pal discloses in Figs 1 and 7 an on/off switching system for at least one electronic ballast for at least one lamp (FL), of at least one lighting fixture (7), said system comprising said at least one ballast having power electronics (5), said

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system further having a remote switch function (not shown) for providing low voltage inputs for on/off control, remotely located apart from said ballast, said remote switch function operating with a low amount of control current and little power loss, at least one connection (as shown) connecting said remotely located switch function to a single ballast resident isolation circuit (optoisolator) capable of providing both on/off and intensity control, said at least one ballast providing high electrical isolation between said remote switch function and said ballast power electronics to each said lamp.

As per claim 9, Pal discloses in Fig.7 an isolated phototransistor portion of said isolation circuit (as shown) being controlled by light emitted the LED (as shown) within the isolation circuit.

As per claim 21, Pal discloses in Fig.7 the remote switch function (not shown) for providing low voltage inputs for on/off control, being a fully isolated remote switch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pal in view of Bedard, Patent No. 4,484,190.

As per claim 10, Pal discloses the claimed invention substantially as explained above. Further, Pal discloses the high-frequency inverter circuit (5) use to provide AC power to each said lamp (FL) of each said lighting fixture (7). Pal does not disclose a

collector-emitter junction controlling on/off operation of the high frequency inverter circuit. Bedard discloses in Figs 1 and 2 an on/off system for at least one electronic ballast (10) having a collector-emitter junction (Q14, Q20) controlling on/off operation of a high frequency inverter circuit (not shown) for at least one lamp (12). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the collector-emitter junction as taught by Bedard into the Pal type system because it would allow proper turn ON and turn OFF of the lamp load depending on their cutoff and saturated conditions to control the frequency of the inverter circuit, thereby improving the efficiency of the system.

As per claims 18-20, Pal in view of Bedard discloses the claimed invention substantially as explained above. In addition, Bedard discloses a remote switch function (30) being provided by an electronic type switching arrangement (see Figs 3a and 3b) including at least one transistor (46a, 46n in Fig.3b) or a programmable electronic system (see Col.2, lines 13-15).

Allowable Subject Matter

Claims 3, 4, 16, 36 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 28, 29 and 40-42 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Katyl et al., Patent No. 5,519,289 ; Liu et al., Patent No. 5,371,440.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 8:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on (571)272-1740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

hp

Haissa Philogene
Primary Examiner
A.U. 2821
